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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

GOOGLE INC., a Delaware corporation, Plaintiff, v. AFFINITY ENGINES, INC., a Delaware corporation, Defendant.	Case No. C 05-0598 JW (HRL) **DECLARATION OF GABRIEL M. RAMSEY IN SUPPORT OF AFFINITY ENGINES, INC.'S MOTION FOR FURTHER CASE MANAGEMENT CONFERENCE RE SCOPE OF BRIN AND PAGE DEPOSITIONS** Date: December 5, 2005 Time: 9:00 Judge: Hon. James Ware Location: Courtroom 8, 4th Floor

Dockets.Justia.com

I, Gabriel M. Ramsey, declare as follows:

1. I am an associate with Orrick, Herrington & Sutcliffe LLP ("Orrick"), counsel for Defendant Affinity Engines, Inc. ("AEI") in the present action. I am over the age of eighteen and competent to make this declaration. I make each of the following statements based on my personal knowledge, and I could, if necessary, testify to the truth of each of them.

2. Attached hereto as **Exhibit 1** is a true and correct copy of portions of the deposition transcript of Orkut Buyukkokten (pp. 634-635)

3. Attached hereto as **Exhibit 2** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled G124563.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled G071169.

5. Attached hereto as **Exhibit 4** are true and correct copies of documents produced in the co-pending California State Court action and Bates-labeled G012315, AEI019686-AEI019688, AEI019900-AEI019905.

6. Attached hereto as **Exhibit 5** are true and correct copies of documents produced in the co-pending California State Court action and Bates-labeled G126193, G111818-G111819.

7. Attached hereto as **Exhibit 6** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled G124369.

8. Attached hereto as **Exhibit 7** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled AEI000291.

9. Attached hereto as **Exhibit 8** are true and correct copies of portions of the deposition transcript of Affinity Engines, through its designee Micah Siegel. (pp. 250-253).

10. Attached hereto as **Exhibit 9** are true and correct copies of portions of the deposition transcript of AEI's former CEO and co-founder, Tyler Ziemann. (pp. 374-378, 388-391, 537-542).

11. Attached hereto as **Exhibit 10** are true and correct copies of documents produced in the co-pending California State Court action and Bates-labeled G112561-G112581, G112966,

G112676, G112599, G113004, G113478-G113482, G113034-G113035).

12. Attached hereto as **Exhibit 11** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled G112972.

13. Attached hereto as **Exhibit 12** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled G124460-G124461.

14. Attached hereto as **Exhibit 13** is a true and correct copy of a document produced in the co-pending California State Court action and Bates-labeled AEI020074-AEI020081.

15. Attached hereto as **Exhibit 14** is a true and correct copy of the Court's order in the matter *Affinity Engines, Inc. v. Google et al.* (Case No. 104CV020368), ordering the depositions of Sergey Brin and Larry Page on various topics. The deposition ordered in that case has not yet been taken or scheduled.

16. Attached hereto as **Exhibit 15** is a true and correct copy of the Court's September 29, 2005 Scheduling Order, in the instant action.

17. Attached hereto as **Exhibit 16** is a true and correct copy of an October 11, 2005 letter from AEI's counsel to Google's counsel.

18. Attached hereto as **Exhibit 17** is a true and correct copy of an October 13, 2005 letter from Google's counsel to AEI's counsel.

19. The Court held a further case management conference on October 15, 2005. At that conference, AEI's counsel indicated that the depositions of Brin and Page had been ordered in the California state court action on several topics pertinent to ownership. However, Google continues to resist those depositions and they have not yet been scheduled. Counsel for AEI specifically discussed a particular meeting between Page, Brin and Buyukkokten, as being pertinent to the ownership issues. However, counsel for AEI did not intend to suggest that this was the only issue pertinent to ownership.

20. Attached hereto as **Exhibit 18** is a true and correct copy of an October 17, 2005 Scheduling Order in the instant action.

21. On October 27, 2005, counsel for AEI contacted counsel for Google requesting that Google stipulate to a further CMC to revisit the scope of the Brin and Page depositions, in

light of Google's motion for summary judgment. On that same day, Google's counsel refused to so stipulate.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 31st day of October, 2005 at Menlo Park, California.

Gabriel M. Ramsey